

EXHIBIT 22

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

WAYMO LLC,)
Plaintiff,)
v.) Case No.
UBER TECHNOLOGIES, INC.;) 3:17-cv-00939-WHA
OTTOMOTTO LLC;)
OTTO TRUCKING,)
Defendants.)
_____)

HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

VIDEOTAPED DEPOSITION OF EDWARD RUSSO

WEDNESDAY, DECEMBER 20, 2017

REPORTED BY:

PAUL J. FREDERICKSON, CCR, CSR

JOB NO. 2771335

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1	Q. Okay. You mentioned that you were	08:09:38
2	doing research and assessment. Can you tell me	08:09:56
3	what that means?	08:09:58
4	A. Sure. It involved doing research	08:09:59
5	into competitors, both in the ridesharing	08:10:02
6	marketplace and in the autonomous vehicle	08:10:07
7	development marketplace.	08:10:09
8	Q. And why was doing research into	08:10:11
9	competitors important to Uber?	08:10:13
10	A. It was my understanding that Uber	08:10:17
11	wanted to have as good an assessment as they	08:10:19
12	could have regarding where its competitors	08:10:20
13	stood in the marketplace so they could gauge	08:10:25
14	its -- you know, where they stood vis-a-vis the	08:10:28
15	other companies.	08:10:31
16	Q. Are you still doing that role?	08:10:33
17	A. No.	08:10:33
18	Q. Do you feel like you were	08:10:38
19	successful in carrying out the task that Uber	08:10:40
20	assigned to you in that role?	08:10:42
21	A. I would say yes. We -- I carried	08:10:47
22	out those tasks. Come springtime, there seemed	08:10:50
23	to be less interest in it, and my	08:10:55
24	responsibilities shifted more to investigations	08:10:57
25	and then the Insider Risk Program.	08:10:59

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1	MR. UMHOFER: Quick clarification.	08:38:14
2	When they spoke, current employees of	08:38:16
3	those competitors or former employees of	08:38:18
4	those competitors. Just --	08:38:21
5	MR. KAPGAN: Okay.	08:38:22
6	MR. UMHOFER: I'm not sure it	08:38:23
7	makes a difference to your answer.	08:38:26
8	THE WITNESS: No.	08:38:28
9	BY MR. KAPGAN:	08:38:28
10	Q. Did you understand that in my	08:38:29
11	question I was asking about existing employees	08:38:30
12	of those competitors?	08:38:33
13	A. I assumed that, but no, I didn't.	08:38:36
14	Q. Okay.	08:38:36
15	So let me ask the follow-on	08:38:41
16	question.	08:38:43
17	A. Yeah.	08:38:44
18	Q. Are you aware of anyone at Uber	08:38:44
19	ever attempting to gather research or	08:38:49
20	intelligence about a competitor of Uber's by	08:38:51
21	speaking to former employees of those	08:38:54
22	competitors?	08:38:58
23	A. No.	08:39:02
24	Q. Are you aware of anyone at Uber	08:39:06
25	ever speaking to former Waymo or Google	08:39:13

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1	about that conversation?	08:41:39
2	A. No. It was pretty short. I mean,	08:41:42
3	we weren't in the car that long.	08:41:44
4	Q. When was that, approximately?	08:41:45
5	A. I do not remember.	08:41:50
6	Q. Was it this year?	08:41:53
7	A. Yes. It would have been -- yeah,	08:41:56
8	I honestly don't remember. It would have been	08:41:58
9	back in the spring maybe, February, March,	08:42:00
10	perhaps.	08:42:03
11	Q. Are you aware of whether there are	08:42:03
12	any former Google or Waymo employees that are	08:42:23
13	employed by Uber?	08:42:24
14	A. By name, no. I assume there might	08:42:29
15	be, but I don't know any.	08:42:31
16	Q. And I take it you don't know	08:42:36
17	whether anyone at Uber has ever spoken to any	08:42:37
18	such employees, that is, former Google or Waymo	08:42:41
19	employees, about activities at Google or Waymo?	08:42:46
20	A. No.	08:42:51
21	Q. So going back to what we started	08:43:00
22	out with, you mentioned that you've been	08:43:02
23	involved in research and assessment, and we	08:43:03
24	talked about research. Is assessment something	08:43:06
25	different?	08:43:07

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1 A. It's a natural follow-on. You do 08:43:14
2 the research, and then it was part of my job to 08:43:14
3 draw some likely conclusions. I'll give you an 08:43:17
4 example. 08:43:20

5 When I first was hired, one of the 08:43:22
6 first projects I had was to look at some of the 08:43:25
7 key personalities in -- I think it was Google X 08:43:29
8 at the time prior to Waymo. So I did 08:43:34
9 open-source research on, you know -- the key 08:43:36
10 personality at the time was a guy named Chris 08:43:38
11 Urmson. This would have been back probably 08:43:42
12 September or so of 2016. 08:43:44

13 There was a lot of articles and 08:43:46
14 blog features on him. One of them included -- 08:43:49
15 allegedly, there was a tension between him and 08:43:54
16 a man named John Krafcik who had been hired to 08:43:56
17 oversee the program. So you take that 08:44:01
18 open-source, summarize it, and then, you know, 08:44:03
19 the assessment would be, you know, if these 08:44:06
20 two -- obviously, if these two can't figure out 08:44:08
21 a way to live and work together, you know, 08:44:10
22 there could be a parting of the ways. And, you 08:44:12
23 know, Google either loses a new executive or 08:44:15
24 they lose a -- a key engineer. 08:44:18

25 Q. And was part of that assessment to 08:44:23

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1	Q. Do you know if Mr. Gicinto did?	09:12:22
2	A. I believe so, yeah.	09:12:23
3	Q. What do you understand that	09:12:25
4	Mr. Gicinto worked with Ric Jacobs on?	09:12:28
5	A. I can't say specifically. I mean,	09:12:32
6	I understand that they -- they worked on a few	09:12:35
7	things together and -- but I -- nothing I had	09:12:37
8	insight into.	09:12:42
9	Q. You don't know any of the details?	09:12:43
10	A. No.	09:12:43
11	Q. While you've been at Uber, have	09:12:59
12	you ever witnessed any activity that you	09:12:59
13	believed or considered was either unethical or	09:13:00
14	illegal?	09:13:03
15	A. Can you be more specific? Any	09:13:05
16	activity that was unethical?	09:13:07
17	MR. UMHOFER: And I'm going to	09:13:11
18	object to this question again as beyond	09:13:12
19	the scope of the judge's order. If you	09:13:13
20	want to limit it to the topics in the	09:13:15
21	judge's order on this deposition, then	09:13:18
22	you can answer.	09:13:20
23	BY MR. KAPGAN:	09:13:20
24	Q. So let me ask it again.	09:13:22
25	While you've been at Uber, have	09:13:26

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1 you ever witnessed any activity by either Uber	09:13:28
2 personnel or their contractors or vendors that	09:13:34
3 you believed or considered to be either	09:13:38
4 unethical or illegal?	09:13:42
5 A. No.	09:13:44
6 MR. UMHOFER: Same objection.	09:13:44
7 Just let me object first.	09:13:45
8 THE WITNESS: Sorry.	09:13:48
9 Please go ahead.	09:13:49
10 BY MR. KAPGAN:	09:13:50
11 Q. That's a no?	09:13:50
12 Do you have any understanding of	09:14:00
13 the circumstances of Mr. Jacobs' resignation?	09:14:01
14 A. Some. He had -- they -- as I	09:14:09
15 understood it, he had had performance issues.	09:14:14
16 So basically he was removed as a manager and	09:14:20
17 made an individual contributor.	09:14:22
18 Q. Is that your understanding of why	09:14:29
19 he resigned?	09:14:30
20 A. I believe that was the big cause,	09:14:36
21 yes.	09:14:37
22 Q. Did you read his letter that --	09:14:38
23 the letter that his attorney sent to Uber	09:14:39
24 outlining his complaints?	09:14:42
25 A. The first time I saw that letter	09:14:43

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1	Q. Okay.	09:16:01
2	I take it you disagree that SSG	09:16:26
3	frequently engaged in fraud and theft?	09:16:33
4	A. You take it that I disagree with	09:16:38
5	that? Yes, I do disagree with that.	09:16:39
6	Q. Do you know whether SSG employed	09:16:42
7	third-party vendors to obtain unauthorized data	09:16:47
8	or information?	09:16:49
9	A. Not to my knowledge.	09:16:50
10	Q. Mr. Jacobs made some allegations	09:16:58
11	with respect to the Marketplace Analytics	09:17:00
12	group. Are you familiar with that?	09:17:03
13	A. The group or the allegations?	09:17:04
14	Q. The allegations.	09:17:06
15	A. You would have to go through them	09:17:09
16	again, and I -- again, like I said, I don't	09:17:11
17	know much about Marketplace Analytics, so the	09:17:13
18	allegations he made, I don't know.	09:17:16
19	Q. Well, one of the things that	09:17:19
20	Mr. Jacobs said was that Marketplace Analytics	09:17:21
21	exists expressly for the purpose of acquiring	09:17:24
22	trade secrets, code base and competitive	09:17:27
23	intelligence.	09:17:31
24	Do you remember those allegations?	09:17:32
25	A. Yep. Yes, I do.	09:17:34

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1	Q. Do you have any basis to say one	09:17:36
2	way or the other whether that's true?	09:17:38
3	A. None whatsoever.	09:17:40
4	Q. You don't know one way or the	09:17:42
5	other; right?	09:17:44
6	A. I don't. I don't believe it to be	09:17:44
7	true, but I don't know.	09:17:46
8	Q. Do you know whether Marketplace	09:17:55
9	Analytics derived business metrics of supply,	09:17:58
10	demand and the function of applications from	09:18:00
11	major ride-sharing competitors globally?	09:18:04
12	A. I don't know. I don't know what	09:18:07
13	Marketplace Analytics does on a day-to-day	09:18:09
14	basis.	09:18:12
15	Q. Did you have interactions with	09:18:17
16	Craig Clark?	09:18:19
17	A. Yes.	09:18:22
18	Q. And what was Craig Clark's role at	09:18:23
19	the company as far as you know?	09:18:27
20	A. He was an in-house attorney, and	09:18:30
21	he was assigned, if you will, to the security	09:18:32
22	team.	09:18:36
23	Q. Was he the primary attorney within	09:18:38
24	the security team?	09:18:41
25	A. That's my understanding.	09:18:43

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1	Q. Sure.	09:26:25
2	I think you testified that,	09:26:30
3	generally speaking, if you're doing competitive	09:26:33
4	intelligence-gathering activities, those	09:26:37
5	were -- you understood those to be at the	09:26:38
6	direction of counsel?	09:26:40
7	A. Yes.	09:26:40
8	Q. Okay.	09:26:40
9	So -- and do I understand	09:26:42
10	correctly that, as a result of that, you made	09:26:43
11	an effort when communicating in writing about	09:26:46
12	your competitive intelligence-gathering	09:26:50
13	activities that those should be labeled	09:26:53
14	attorney-client privilege.	09:26:55
15	MR. UMHOFER: Objection, vague and	09:26:58
16	ambiguous.	09:26:59
17	MS. CHANG: Objection, misstates	09:26:59
18	prior testimony.	09:27:02
19	A. Okay. Then -- would you mind one	09:27:06
20	more time?	09:27:09
21	Q. Sure.	09:27:10
22	Do I understand correctly that as	09:27:10
23	a result of you understanding that your	09:27:12
24	competitive intelligence-gathering activities	09:27:17
25	were at the direction of counsel --	09:27:19

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1	A. Right.	09:27:21
2	Q. -- that you made an effort to	09:27:21
3	label communications about those activities as	09:27:22
4	attorney-client privilege?	09:27:24
5	MR. UMHOFER: Same objection.	09:27:25
6	MS. CHANG: Objection, misstates	09:27:26
7	prior testimony.	09:27:28
8	A. Yeah. I mean, my answer is what	09:27:32
9	it was, which is, based on the training I had,	09:27:34
10	I understood there to be two -- two categories	09:27:39
11	for labeling something attorney-client	09:27:42
12	privilege. Right? When soliciting advice or	09:27:44
13	guidance or if you're preparing a product that	09:27:48
14	had been at the direction of legal, those were	09:27:53
15	the times that I would use attorney-client	09:27:57
16	privilege.	09:27:59
17	Q. And that included the times when	09:28:00
18	you did competitive intelligence-gathering	09:28:01
19	activities; right?	09:28:04
20	A. If the report was at the direction	09:28:05
21	of legal, then I would label it appropriately,	09:28:09
22	as I understood it to be -- as I understood the	09:28:12
23	process.	09:28:16
24	Q. All right.	09:28:16
25	And I think we established that	09:28:18

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1	A. I believe, yeah. I believe it was	09:51:24
2	September of this year.	09:51:26
3	Q. And is it your understanding that	09:51:27
4	communications done through the Wickr platform,	09:51:30
5	there's no record of them kept; is that right?	09:51:33
6	A. For the most part, right. As I	09:51:38
7	understand it, there's a new version now that	09:51:40
8	does keep a record, but yes.	09:51:42
9	Q. But when you were using it, you	09:51:43
10	understood that essentially those	09:51:46
11	communications would self-destruct within a	09:51:47
12	period of time?	09:51:49
13	A. Yes.	09:51:50
14	Q. And do you have an understanding	09:51:51
15	of what that period of time was?	09:51:52
16	A. Wickr allows you -- or as I	09:51:54
17	remember it, it allowed you to change those	09:51:55
18	settings. But I think for the most part	09:51:59
19	everybody was like five or six days, something	09:52:01
20	to that effect.	09:52:05
21	Q. And when would you use Wickr as	09:52:07
22	opposed to, let's say, email?	09:52:10
23	A. I think Wickr was kind of our	09:52:13
24	preferred method of communicating. So --	09:52:21
25	Q. And do you have any understanding	09:52:24

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1 of why Wickr was the preferred method?	09:52:27
2 A. Essentially -- you mentioned the	09:52:32
3 ephemerality, but Wickr is also encrypted	09:52:34
4 end-to-end communications. So there's no	09:52:37
5 chance of whatever you're discussing being	09:52:40
6 intercepted by someone else.	09:52:43
7 Q. So is it your understanding that	09:52:48
8 the main reasons for using Wickr were the	09:52:49
9 security and the ephemerality of the	09:52:52
10 communication?	09:52:56
11 A. Right, to protect our discussions.	09:52:57
12 Q. So it was routine during the	09:53:02
13 course of your work to use Wickr to communicate	09:53:04
14 with others at the company; is that fair?	09:53:07
15 A. Yes. Well, within Threat Ops,	09:53:10
16 yes.	09:53:12
17 Q. And -- and do you have an	09:53:12
18 understanding that others within Threat Ops	09:53:14
19 also preferred and routinely used Wickr to	09:53:16
20 communicate with each other?	09:53:19
21 A. Yes, that was my understanding.	09:53:20
22 Q. What about outside of Threat Ops?	09:53:22
23 Did -- do you have an understanding of whether	09:53:24
24 others used Wickr?	09:53:26
25 A. My use of Wickr was pretty much my	09:53:28

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1	A. I did not.	09:54:39
2	Q. Are you aware of others who did?	09:54:40
3	A. I believe Mr. Gicinto did, but I'm	09:54:43
4	not certain.	09:54:45
5	Q. Was Wickr discussed during any of	09:54:52
6	the meetings that you had with the ATG group in	09:54:54
7	Pittsburgh?	09:54:59
8	A. No. No, it was not.	09:55:00
9	Q. Were there meetings happening as	09:55:02
10	far as you know with ATG group while you were	09:55:03
11	there that you were not involved in?	09:55:06
12	A. While I was where? In Pittsburgh?	09:55:09
13	Q. In Pittsburgh.	09:55:10
14	A. Not that I'm aware of.	09:55:12
15	Q. Other than using Wickr, have you	09:55:16
16	used other forms of ephemeral communications	09:55:23
17	while you've been at Uber to conduct Uber	09:55:25
18	business?	09:55:28
19	A. Yes. The ephemeral HipChat and	09:55:29
20	UChat are Uber-wide ephemeral platforms.	09:55:32
21	Q. Did UChat replace HipChat?	09:55:40
22	A. Yes, it did.	09:55:42
23	Q. Is UChat used at the company now?	09:55:44
24	A. I believe it is. Yes, it is.	09:55:47
25	Yeah, it is.	09:55:49

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1 Q. Did he explain that it was	09:57:12
2 preferable to use telephone calls or	09:57:14
3 in-conference meetings because there wouldn't	09:57:20
4 be a record of what was discussed during such	09:57:22
5 meetings or phone calls?	09:57:24
6 A. That was not my understanding of	09:57:25
7 his explanation, no.	09:57:27
8 Q. Did he explain that it was	09:57:31
9 preferable to use Wickr because there would not	09:57:32
10 be a record of communications that were had on	09:57:34
11 that platform?	09:57:37
12 A. No, that was not my understanding.	09:57:40
13 Q. Okay.	09:57:40
14 But you understood that was the	09:57:42
15 effect of using Wickr?	09:57:43
16 A. Yes. Yeah. Yeah. And that was	09:57:45
17 desirable from the perspective of protecting	09:57:47
18 information.	09:57:50
19 Q. Could documents be exchanged using	09:57:50
20 Wickr?	09:58:05
21 A. As I recall, they could not be	09:58:06
22 exchanged, but you could attach a document.	09:58:10
23 For example, I could attach a document send it	09:58:13
24 to you, you could read the document, but that	09:58:16
25 would be it.	09:58:19

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1 were not preserved; correct?	10:02:48
2 A. Correct.	10:02:50
3 MS. CHANG: Objection, vague and	10:02:50
4 ambiguous as to time period.	10:02:51
5 MR. UMHOFER: And lack of	10:02:53
6 foundation.	10:02:54
7 BY MR. KAPGAN:	10:02:54
8 Q. And am I correct in assuming that	10:03:04
9 after you were put on a legal hold, you	10:03:06
10 continued to have communications on Wickr?	10:03:08
11 A. Yes.	10:03:14
12 Q. And as far as you're aware, other	10:03:14
13 people within Threat Ops continued to	10:03:18
14 communicate on Wickr as well?	10:03:20
15 A. Yes.	10:03:20
16 Q. And so if I wanted to try to find	10:03:32
17 out or you wanted to try to find out about	10:03:34
18 prior communications that you had on Wickr, you	10:03:39
19 wouldn't be able to access those at this point;	10:03:41
20 right?	10:03:44
21 A. No.	10:03:44
22 Q. Yes or no, were you given any	10:03:54
23 instruction about using or not using Wickr	10:03:57
24 after you were put on a legal hold?	10:04:03
25 A. I'm not sure that's a yes-or-no	10:04:11

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1 question. But the legal hold I received, as I	10:04:12
2 recall, stated we could not discuss Ric Jacobs	10:04:17
3 or those matters pending via Wickr. It did not	10:04:20
4 say we couldn't continue our other business via	10:04:24
5 Wickr.	10:04:27
6 MS. CHANG: I'm allowing the	10:04:27
7 witness to answer this line of	10:04:28
8 questioning pursuant to the 502	10:04:30
9 stipulation that the parties have in	10:04:33
10 place relating to this issue.	10:04:35
11 BY MR. KAPGAN:	10:04:35
12 Q. After you received that legal	10:04:48
13 hold, did you, in fact, discuss any of the	10:04:49
14 issues raised in the Ric Jacobs attorney letter	10:04:55
15 or any other matters about Ric Jacobs via	10:04:59
16 Wickr?	10:05:03
17 A. No.	10:05:03
18 Q. Are you aware of anyone else who	10:05:04
19 did?	10:05:05
20 A. No, I'm not aware.	10:05:06
21 Q. During the course of your time at	10:05:06
22 Uber, have you ever discussed Waymo or Google	10:05:15
23 with other folks at Uber via Wickr?	10:05:19
24 A. I'm sure I have, yes.	10:05:27
25 Q. Can you give me the context?	10:05:29

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1	Q. In other words, you're not aware	10:08:41
2	of anyone at Uber using ephemeral	10:08:43
3	communications for the purpose of destroying	10:08:45
4	evidence of any sort?	10:08:49
5	A. Correct. For the purpose of	10:08:51
6	destroying evidence or the other thing you	10:08:53
7	said, evading discovery, no, I'm not aware of	10:08:55
8	anyone who has done that.	10:08:58
9	Q. You never had any conversations	10:09:12
10	with Mr. Gicinto or Mr. Clark on that subject?	10:09:14
11	A. On what subject?	10:09:17
12	Q. On the subject of using Wickr, as	10:09:18
13	an example, to prevent discovery of certain	10:09:23
14	information in litigation.	10:09:27
15	A. No.	10:09:27
16	Q. You said that you had some	10:09:45
17	projects that you worked on with Mr. Jacobs; is	10:09:46
18	that right?	10:09:46
19	A. No, I did not say that.	10:09:50
20	Q. Okay.	10:09:51
21	Can you remind me again, what was	10:10:00
22	your interaction with Mr. Jacobs? What did	10:10:02
23	that consist of?	10:10:04
24	A. I met him a handful of times when	10:10:07
25	I came out to San Francisco, a couple of times	10:10:08

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1 in the office. There were a couple of team	10:10:11
2 dinners.	10:10:17
3 Q. During the course of his	10:10:19
4 employment at Uber, did you ever become aware	10:10:21
5 of any objections that Mr. Jacobs made to any	10:10:25
6 practices taking place at Uber?	10:10:29
7 A. No. No, I'm not aware of him	10:10:30
8 making any objections.	10:10:33
9 Q. Did you discuss with Mr. Gicinto	10:10:37
10 at any time the objections or allegations that	10:10:40
11 Mr. Jacobs made in his attorney letter to Uber?	10:10:46
12 A. No. I did not see the letter and	10:10:50
13 nobody discussed it with me.	10:10:54
14 Q. Okay.	10:10:56
15 So in terms of the allegations in	10:11:00
16 Mr. Jacobs' letter, other than with your	10:11:01
17 attorneys, you haven't actually discussed those	10:11:06
18 allegations with anyone at Uber; is that right?	10:11:07
19 A. At Uber?	10:11:10
20 Q. Yeah.	10:11:11
21 A. No. There was an internal	10:11:12
22 investigation conducted by Wilmer Hale. They	10:11:13
23 asked a series of questions.	10:11:16
24 MS. CHANG: I would like to	10:11:19
25 interject here. I would like to caution	10:11:20

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1	A. Misattributable devices, yes.	10:13:33
2	Q. Okay.	10:13:34
3	What are misattributable devices?	10:13:36
4	A. Those are devices that don't tie	10:13:38
5	directly back to you as a user.	10:13:40
6	Q. Have you sometimes heard those	10:13:46
7	referred to as nonattributable devices?	10:13:48
8	A. Yes.	10:13:50
9	Q. Same thing, as far as you know?	10:13:51
10	A. As far as I know, there is nothing	10:13:54
11	as a nonattributable device. It's going to	10:13:58
12	attribute to something.	10:14:01
13	Q. Did Uber purchase misattributable	10:14:03
14	devices?	10:14:06
15	A. Yes.	10:14:07
16	Q. For what purpose?	10:14:08
17	A. Two purposes: We had -- whenever	10:14:12
18	research was being done into a hostile actor,	10:14:18
19	particularly overseas, you would use a	10:14:22
20	misattributable device for that.	10:14:26
21	We also had a -- a system set up	10:14:28
22	to protect our most sensitive information. So	10:14:31
23	we would use the misattributable device to log	10:14:34
24	into that.	10:14:37
25	Q. What kind of sensitive information	10:14:43

		Page 114
1	Q. These were laptops?	10:18:43
2	A. Yes.	10:18:43
3	Q. What was your understanding as to	10:18:50
4	why the SSG reports were being stored on the	10:18:51
5	Nextcloud system that was not Uber's primary	10:18:55
6	system?	10:18:59
7	A. Security.	10:19:00
8	Q. Was there a belief that Uber's own	10:19:02
9	systems were not secure enough?	10:19:05
10	MR. UMHOFER: Objection, calls for	10:19:08
11	speculation.	10:19:08
12	BY MR. KAPGAN:	10:19:10
13	Q. Do you understand it?	10:19:10
14	A. It was -- the -- being hacked was	10:19:12
15	a concern, yes.	10:19:14
16	Q. What was your understanding, if	10:19:14
17	you had any, as to why these SSG reports were	10:19:36
18	deemed to be the kind of information that	10:19:40
19	should be on Nextcloud's system as opposed to	10:19:43
20	any other information that Uber had?	10:19:47
21	A. Say that again.	10:19:51
22	Q. Sure.	10:19:52
23	As I understand it, your	10:19:54
24	understanding is that the only type of	10:19:55
25	information that was stored on these -- on this	10:19:59

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1	Nextcloud system were these SSG reports; 10:20:03
2	correct? 10:20:06
3	A. Yes. 10:20:06
4	Q. Do you have any understanding of 10:20:07
5	why there was no other information of Uber that 10:20:08
6	was stored on Nextcloud systems, given the 10:20:13
7	concern for hacking? 10:20:17
8	A. I -- I don't know why. I know it 10:20:18
9	was set up to protect our information. 10:20:21
10	Q. Do you have an understanding of 10:20:23
11	who knew about the Nextcloud system? 10:20:25
12	A. Well, obviously all those of us 10:20:32
13	who used it. Mat Henley, Craig Clark, Joe 10:20:34
14	Sullivan. I imagine there's a few others. 10:20:40
15	Q. How many different people used the 10:20:45
16	system? 10:20:47
17	A. Let's see. Seven or eight or so. 10:20:50
18	Q. These were all folks who were in 10:21:01
19	the SSG group? 10:21:03
20	A. Or Threat Ops. 10:21:04
21	Q. Can you tell me who you believe 10:21:07
22	those folks were? 10:21:08
23	A. Myself, Nick Gicinto, Jake Nocon, 10:21:10
24	Anna Chung, Mat Henley, Susan Chiang. I'm not 10:21:15
25	sure if there were others, but I think 10:21:24

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1	that's -- that might be it. 10:21:25
2	Q. Do you know when that system was 10:21:29
3	first created, the Nextcloud system? 10:21:30
4	A. I want to say January of this 10:21:35
5	year, 2017. 10:21:36
6	Q. Does it still exist? 10:21:38
7	A. No. 10:21:38
8	Q. Why not? 10:21:45
9	A. The decision was made to take it 10:21:45
10	down because it was very expensive, too clunky, 10:21:47
11	not -- it was secure, but it was not very user 10:21:51
12	friendly. So -- 10:21:56
13	Q. So what happened to the reports 10:21:58
14	that -- that were stored on there? 10:21:59
15	A. Nick pulled all those down off the 10:22:00
16	cloud. He has those. 10:22:03
17	Q. Were they put on Uber's main 10:22:04
18	systems? 10:22:07
19	A. I do not know. I don't believe 10:22:07
20	so, but I do not know. 10:22:09
21	Q. Do you have any understanding of 10:22:10
22	why those reports were not put on Uber's main 10:22:12
23	system? 10:22:14
24	A. No, I don't know. 10:22:16
25	Q. Do you know when the decision was 10:22:22

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1	Q. Do you have an understanding that	10:23:38
2	Dropbox was deemed to be not sufficiently	10:23:40
3	secure and that was the reason for transferring	10:23:43
4	to Nextcloud?	10:23:46
5	A. The Nextcloud system was	10:23:49
6	contracted and put in place to have a more	10:23:52
7	secure system. So yes.	10:23:54
8	Q. Was that the primary reason of --	10:23:57
9	of moving to Nextcloud?	10:23:59
10	A. Yes. Yeah.	10:24:01
11	Q. Do you have an understanding that	10:24:08
12	the SSG reports were removed from Dropbox	10:24:09
13	during that transition period?	10:24:11
14	A. Yes.	10:24:11
15	Q. Were there any other systems other	10:24:23
16	than Dropbox and Nextcloud that you're aware of	10:24:25
17	that were used to store sensitive Uber	10:24:27
18	information?	10:24:30
19	A. No.	10:24:30
20	Q. The SSG reports that were stored	10:24:44
21	on Dropbox and then Nextcloud, can you tell me	10:24:46
22	the kinds of reports that were stored there?	10:24:51
23	A. Sure. Some were research and	10:24:56
24	assessments on competitors. Some were reports	10:25:00
25	about situations in foreign countries that	10:25:03

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1 beared on Uber's operations there. 10:25:07

2 Q. Any other types of reports? 10:25:11

3 A. Probably, but, I mean, 10:25:18

4 specifically I can't think of. Those are 10:25:19

5 the -- the two primary types we would write. 10:25:21

6 Q. Were any of these reports, to your 10:25:23

7 knowledge, ever sent to individuals outside of 10:25:31

8 Threat Ops team? 10:25:35

9 A. I don't know. 10:25:44

10 Q. Do you know if there was any 10:25:45

11 policy that -- in place that, written or 10:25:46

12 unwritten, that such reports, given the 10:25:50

13 sensitive nature and the fact that they existed 10:25:52

14 on this non-Uber system, should not be sent to 10:25:56

15 folks outside of the Threat Ops team? 10:25:59

16 A. I don't know of any policy. I 10:26:03

17 mean, if the report was prepared at the 10:26:05

18 direction of a customer or, you know, had value 10:26:12

19 to somebody, I'm certain it was showed to them. 10:26:14

20 Q. When you say "customer," you're 10:26:22

21 referring to internal Uber folks or someone 10:26:23

22 else? 10:26:25

23 A. Internal Uber, yes. 10:26:26

24 Q. Do you have any understanding of 10:26:33

25 how many different reports were contained on 10:26:35

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1 Uber procurement purchase, then it's an -- it's	10:31:40
2 obviously and clearly an Uber laptop. So by --	10:31:44
3 by going outside to a contractor and purchasing	10:31:48
4 that way, it -- basically that's part of what	10:31:50
5 makes it misattributable.	10:31:53
6 Q. You're saying that if Uber itself	10:31:55
7 purchased a laptop, that others who are viewing	10:31:58
8 that laptop, accessing, for example, a computer	10:32:04
9 system on the Internet would be able to figure	10:32:07
10 out that that laptop came from Uber? Is that	10:32:09
11 the idea?	10:32:13
12 A. I think so. Again, now you're	10:32:14
13 getting into the technical stuff that I really	10:32:15
14 can't speak to.	10:32:18
15 Q. Aside from laptop computers, what	10:32:25
16 other kinds of misattributable devices are you	10:32:27
17 aware of that were purchased by Uber?	10:32:29
18 A. The MiFi is to connect to the	10:32:31
19 Internet.	10:32:35
20 Q. Any -- any other devices?	10:32:43
21 A. Not to my knowledge.	10:32:44
22 Q. Did I understand correctly that to	10:32:45
23 access the Nextcloud system, folks at Uber	10:32:54
24 exclusively used misattributable devices?	10:32:57
25 A. Yes.	10:33:03

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1	I caution the witness not to	10:40:23
2	disclose the substance of any privileged	10:40:24
3	communication.	10:40:26
4	A. If you're asking me, did the	10:40:28
5	misattributable devices exist to avoid	10:40:31
6	discovery, then the answer is no.	10:40:34
7	Q. No. My question was just, did you	10:40:37
8	have any understanding that use of	10:40:40
9	misattributable or nonattributable devices,	10:40:45
10	that activities with respect to those -- that	10:40:48
11	use would not be subject to legal discovery?	10:40:52
12	MR. UMHOFER: Objection, vague and	10:40:55
13	ambiguous, calls for speculation.	10:40:56
14	A. Yeah, I -- if I understand the	10:41:00
15	question, was this -- were these used to avoid	10:41:02
16	legal discovery, then the answer is no.	10:41:07
17	Q. Did you have any understanding	10:41:09
18	that one effect of using such devices would be	10:41:10
19	to avoid discovery?	10:41:13
20	A. No, I had no such understanding.	10:41:15
21	Q. Do you have any understanding of	10:41:28
22	whether any of the information that was	10:41:29
23	uploaded to Dropbox or Nextcloud as part of	10:41:31
24	this alternative system, that any of that	10:41:35
25	information was ever destroyed or deleted?	10:41:38

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1 or the other about those allegations?	10:44:13
2 A. I have no knowledge about those	10:44:15
3 allegations.	10:44:17
4 Q. There are also allegations by	10:44:21
5 Mr. Jacobs that the Marketplace Analytics team	10:44:23
6 used certain tactics to obtain trade secrets	10:44:26
7 from third parties. Do you have any knowledge	10:44:29
8 about that?	10:44:32
9 A. I do not.	10:44:35
10 Q. Did you ever witness anyone at	10:44:36
11 Uber obtain confidential information or trade	10:44:38
12 secrets from a third party?	10:44:40
13 A. No.	10:44:40
14 Q. There are some allegations about	10:45:00
15 you in the letter, which I'm sure you're	10:45:01
16 familiar -- familiar with.	10:45:03
17 A. Yes.	10:45:04
18 Q. It -- one of those allegations is	10:45:06
19 that you were actively engaged in human	10:45:09
20 intelligence and identifying market penetration	10:45:14
21 opportunities for Uber in the [REDACTED]	10:45:16
22 market specifically.	10:45:20
23 Is that a fair -- is that	10:45:21
24 allegation true?	10:45:22
25 A. The allegation is not true.	10:45:24

		Page 137
1	A. You would have to ask Mr. Jacobs	10:46:03
2	because I do not.	10:46:05
3	Q. He also stated that part of your	10:46:08
4	role was to enable competitive intelligence and	10:46:10
5	the theft of trade secrets by developing	10:46:13
6	sources within competitor organizations.	10:46:16
7	That's what you just mentioned as human	10:46:17
8	intelligence.	10:46:20
9	A. Yes.	10:46:20
10	Q. I take it you deny that	10:46:20
11	allegation?	10:46:22
12	A. You take that correctly. I	10:46:22
13	absolutely deny that allegation.	10:46:24
14	Q. Did you ever have an opportunity	10:46:25
15	to vet insiders at competitor organizations?	10:46:27
16	A. No.	10:46:27
17	Q. Prior to you learning about the	10:46:45
18	Jacobs allegations, did you ever hear the	10:46:47
19	allegation that Uber stole trade secrets from	10:46:53
20	Waymo?	10:46:56
21	A. Say that again. Prior to the	10:46:58
22	Jacobs letter?	10:46:59
23	Q. Yes.	10:46:59
24	A. Just what was in the news when the	10:47:01
25	lawsuit, you know, became public or was filed	10:47:03

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1 as you know, that was responsible for doing the	10:50:17
2 things that SSG was doing prior to the time	10:50:18
3 that SSG was formed?	10:50:20
4 A. Not to my knowledge.	10:50:21
5 Q. Now, there's an allegation by	10:50:34
6 Mr. Jacobs that Russo, Gicinto and Nocon	10:50:36
7 traveled to Pittsburgh and educated the team on	10:50:40
8 using ephemeral communications, nonattributable	10:50:42
9 devices and false attorney-client privilege	10:50:45
10 designations.	10:50:49
11 Do you generally recall that?	10:50:50
12 A. I recall his allegation, yes.	10:50:53
13 Q. True or not true?	10:50:56
14 A. Not true.	10:50:57
15 Q. None of that happened; is that	10:51:04
16 right?	10:51:04
17 A. Mr. Gicinto and I traveled to	10:51:04
18 Pittsburgh, Mr. Nocon and I traveled to	10:51:04
19 Pittsburgh, Mr. Gicinto and I traveled to	10:51:06
20 Pittsburgh again. Yes, that's true. We never	10:51:08
21 discussed using ephemeral communications or	10:51:11
22 misattribute devices with anybody there. That	10:51:16
23 was not the purpose of the trip. Never	10:51:18
24 happened.	10:51:20
25 Q. And you didn't discuss	10:51:20

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1	attorney-client privileged designations; right? 10:51:23
2	A. Did not discuss attorney-client -- 10:51:23
3	[Reporter clarification.] 10:51:23
4	Q. You didn't discuss attorney-client 10:51:23
5	privileged designations; right? 10:51:23
6	A. Correct, I did not discuss 10:51:26
7	attorney-client privileged designations. 10:51:28
8	MS. CHANG: Counsel, when you're 10:51:30
9	at a good stopping point. We've been 10:51:39
10	going over an hour. 10:51:41
11	MR. KAPGAN: Let's do it. 10:51:42
12	THE VIDEOGRAPHER: We're going off 10:51:43
13	the record. The time is 10:52 a.m. 10:51:44
14	[Recess at 10:52 a.m.] 10:52:24
15	[Resuming at 11:05 a.m.] 10:52:28
16	THE VIDEOGRAPHER: We are back on 11:04:56
17	the record. The time is 11:05 a.m. 11:04:58
18	EXAMINATION CONTINUING 11:04:58
19	BY MR. KAPGAN: 11:04:58
20	Q. We talked a little earlier, 11:05:01
21	Mr. Russo, about human intelligence activities, 11:05:02
22	which I understood to mean trying to gather 11:05:06
23	trade secrets and confidential information from 11:05:09
24	folks employed by third-party competitors as an 11:05:14
25	example; correct? 11:05:16

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1 A. Yes, that was discussed. 11:05:21
2 Q. Are you aware of anyone at Uber 11:05:22
3 ever doing that? 11:05:24
4 A. Doing what? 11:05:26
5 Q. Those kinds of human 11:05:27
6 intelligence-gathering activities. 11:05:29
7 A. No. 11:05:39
8 Q. Mr. Jacobs in his attorney's 11:05:43
9 letter refers to some surveillance activities 11:05:46
10 with respect to [REDACTED]. 11:05:50
11 Do you remember that? 11:05:51
12 A. I remember him referring to that 11:05:53
13 in his letter, yes. 11:05:55
14 Q. And you had mentioned earlier in 11:05:56
15 the deposition today that you understood that 11:05:58
16 there was some surveillance happening with 11:06:01
17 respect to [REDACTED]; is that right? 11:06:03
18 A. Yes. Prior to my being hired, 11:06:05
19 yes. 11:06:06
20 Q. Okay. 11:06:07
21 And what is it that -- what do you 11:06:11
22 know, based on talking to others at Uber, 11:06:14
23 happened with respect to the surveillance 11:06:17
24 activities that Uber conducted with respect to 11:06:19
25 [REDACTED]? 11:06:22

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1 Q. Have you been involved -- I think 11:10:57
2 you mentioned that you were involved in doing 11:10:57
3 research about [REDACTED] 11:10:59
4 A. Yes. 11:10:59
5 Q. It's a competitor in [REDACTED]; right? 11:11:02
6 A. Correct. A ridesharing company 11:11:05
7 there. 11:11:07
8 Q. Are you aware of any confidential 11:11:19
9 information or trade secrets of [REDACTED] that 11:11:26
10 anyone at Uber has obtained? 11:11:29
11 A. Confidential information or trade 11:11:39
12 secrets? No. 11:11:39
13 Q. I take it there's other kinds of 11:11:43
14 information that individuals at Uber have 11:11:45
15 obtained from [REDACTED] 11:11:46
16 A. Yes, there is. 11:11:50
17 Q. Can you give me some examples? 11:11:50
18 A. It's a very competitive market 11:11:53
19 there. It's a very competitive market. Part 11:11:55
20 of the competition is for drivers, to have 11:11:58
21 drivers on your platform. 11:12:01
22 So [REDACTED] made it a requirement that 11:12:02
23 if you're going to drive for them, you have to 11:12:10
24 provide [REDACTED] -- and you're also an Uber driver, 11:12:12
25 you have to provide [REDACTED] your Uber credentials 11:12:16

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1 forth but that our engineering teams didn't 11:52:08
2 have the resources to be able to build that. 11:52:11
3 Q. Did -- as far as you know, did 11:52:14
4 Mr. Gicinto think it was a good idea to create 11:52:17
5 such a database? 11:52:20
6 A. Yeah, I don't believe he objected 11:52:21
7 to it. 11:52:23
8 Q. So the reason as far as you're 11:52:28
9 aware that Mr. Jacobs' proposal to create this 11:52:30
10 kind of intelligence database did not proceed 11:52:34
11 was simply because there weren't sufficient 11:52:37
12 internal resources at Uber to make it happen? 11:52:42
13 A. That was my understanding, yes. 11:52:46
14 Q. Did you have an understanding that 11:52:48
15 the proposal would include taking the 11:52:51
16 information that resided on the Nextcloud 11:52:57
17 system and putting that onto some kind of 11:53:02
18 centralized repository maintained by Uber? 11:53:04
19 A. I -- I don't know whether that was 11:53:07
20 going to be the result of that as well. 11:53:08
21 Q. Do you know whether Mr. Jacobs 11:53:11
22 knew about the Nextcloud system? 11:53:12
23 A. I don't know whether he knew or 11:53:14
24 not. 11:53:16
25 Q. With respect to this intelligence 11:53:34

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1 was an update that was scheduled and that it	14:02:28
2 had been cancelled or postponed or some such,	14:02:30
3 so I don't remember exactly how the whole thing	14:02:33
4 transpired.	14:02:35
5 Q. How many reports of this type do	14:02:38
6 you recall being generated?	14:02:40
7 A. After this one, probably one,	14:02:48
8 maybe two more, but I think one more.	14:02:50
9 Q. Were there any before this?	14:02:53
10 A. I believe this would be the first,	14:02:56
11 December 2016.	14:02:58
12 Q. And was there a particular person	14:03:03
13 who commissioned or authorized this report?	14:03:04
14 A. It's my understanding that	14:03:07
15 Mr. Sullivan wanted this information, yes.	14:03:09
16 Q. And, generally, can you tell me,	14:03:15
17 what's the purpose of this document?	14:03:17
18 A. Basically to provide a sense of	14:03:22
19 the lay of the land, as it were, regarding the	14:03:26
20 various leaders in the autonomous vehicle	14:03:30
21 field.	14:03:34
22 Q. And do you know why that was	14:03:36
23 important for Mr. Sullivan or Uber to have?	14:03:39
24 A. I do not know why. I mean, my	14:03:43
25 assumption, of course, was that -- I mean,	14:03:45

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1	you're in the race for groundbreaking	14:03:48
2	technology. You want to kind of have an	14:03:50
3	understanding of where you are in that race as	14:03:53
4	best you can.	14:03:55
5	Q. Did you lead the drafting of this	14:04:02
6	document?	14:04:04
7	A. I think, yeah, that's a fair	14:04:04
8	characterization.	14:04:07
9	Q. You had ownership over it?	14:04:07
10	A. Uh-huh.	14:04:09
11	Q. Yes? I just want to make sure	14:04:09
12	it's audible for the record. Yes?	14:04:11
13	A. Yes. I'm sorry.	14:04:14
14	Q. All right.	14:04:14
15	If you turn to the second page.	14:04:19
16	It says "TLDR" at the top.	14:04:28
17	A. Yes.	14:04:30
18	Q. What does that stand for?	14:04:31
19	A. Apparently, that's either an Uber	14:04:31
20	or Silicon Valley thing. It means too long. I	14:04:34
21	didn't read it.	14:04:36
22	Q. And so is this basically an	14:04:37
23	executive summary of the document?	14:04:39
24	A. Yeah, that's exactly what it is.	14:04:40
25	Q. And then if you look at the first	14:04:42

		Page 240
1	Q. And that was based on what?	14:05:25
2	A. Based on interviews with our own	14:05:27
3	ATG employees as well as open-source reporting,	14:05:29
4	newspaper articles and such.	14:05:33
5	Q. All right.	14:05:38
6	Third bullet says:	14:05:39
7	"There are indicators Turtle may	14:05:39
8	now be a significant threat in the AV race."	14:05:39
9	Right?	14:05:39
10	A. Yes.	14:05:45
11	Q. That's a reference to [REDACTED]?	14:05:45
12	A. It's a reference to [REDACTED] yes.	14:05:46
13	Q. And where did you learn that?	14:05:48
14	A. A combination, again, of	14:05:49
15	open-source, newspaper articles and what have	14:05:51
16	you, and our own engineers assessed that	14:05:53
17	[REDACTED] own public pronouncements about	14:05:56
18	[REDACTED] positioning in the race, if you will,	14:06:00
19	or [REDACTED] capabilities were overblown.	14:06:03
20	Q. Next bullet:	14:06:08
21	"Zebra's goal is to reinvent	14:06:10
22	completely the automobile"?	14:06:12
23	A. Yes.	14:06:12
24	Q. That's referring to [REDACTED]?	14:06:13
25	A. It is.	14:06:14

		Page 241
1	Q. And what did you rely on to make	14:06:15
2	that statement?	14:06:18
3	A. Either a newspaper article or a	14:06:19
4	tech blog or some such.	14:06:22
5	Q. Last bullet says:	14:06:26
6	"SSG's 2017 research will focus on	14:06:28
7	Giraffe, Turtle, Zebra and Turtle/Chimp as well	14:06:30
8	as competitors from Asia."	14:06:35
9	Right?	14:06:36
10	A. Yes.	14:06:36
11	Q. Okay.	14:06:36
12	And -- and so I take it that what	14:06:39
13	was being conveyed here was that, in the	14:06:44
14	following year in 2017, this Strategic Services	14:06:47
15	Group was going to focus its research on	14:06:51
16	Google, among others --	14:06:54
17	A. Yes.	14:06:54
18	Q. -- correct?	14:06:58
19	A. Uh-huh.	14:06:58
20	Q. And who -- was there someone	14:07:02
21	responsible for directing that that be a	14:07:05
22	priority for Uber?	14:07:09
23	A. I'm sorry?	14:07:13
24	Q. That research on Google and these	14:07:14
25	other companies, that that was a priority for	14:07:16

		Page 243
1	bullet says:	14:08:17
2	"Source code, not hardware	14:08:18
3	automotive design, is the key to success."	14:08:19
4	A. Right.	14:08:23
5	Q. And you wrote that bullet?	14:08:23
6	A. I did.	14:08:25
7	Q. And what was your statement based	14:08:26
8	on?	14:08:29
9	A. Interviews with our personnel in	14:08:29
10	ATG.	14:08:32
11	Q. Then the second bullet:	14:08:33
12	"All the source code necessary for	14:08:35
13	success can be compressed to 75 megabytes plus	14:08:36
14	or minus."	14:08:39
15	Do you see that?	14:08:41
16	A. I do.	14:08:41
17	Q. Was that also based on your	14:08:42
18	discussions with ATG personnel?	14:08:43
19	A. Yes.	14:08:43
20	Q. And just, in general, you don't	14:08:56
21	believe any of the statements in this	14:08:57
22	presentation are inaccurate. Do you believe	14:08:59
23	them to be all accurate as far as you knew at	14:09:02
24	the time?	14:09:04
25	A. As far as I knew at the time, yes.	14:09:04

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1	A. I have no understanding what 14:12:20
2	Mr. Sullivan was thinking. 14:12:22
3	Q. As far as you're aware sitting 14:12:23
4	here today and looking at these slides, there's 14:12:25
5	not any legal advice in these slides, is there? 14:12:27
6	A. No, there is not. 14:12:30
7	Q. If you look at the slide marked 14:12:31
8	939, which is the next to last slide. 14:12:35
9	A. Right. 14:12:37
10	Q. It's entitled, "Plans"? 14:12:39
11	A. Yes. 14:12:42
12	Q. And it's -- the first bullet says: 14:12:42
13	"For 2017, SSG's priority effort 14:12:44
14	will be Giraffe." 14:12:48
15	A. Yes. 14:12:51
16	Q. Explain to me what that means. 14:12:51
17	A. That the bulk of our research 14:12:53
18	efforts would be tracking Giraffe's success or 14:12:55
19	efforts to improve its autonomous vehicle 14:12:58
20	program. 14:13:02
21	Q. And why was it important for Uber 14:13:02
22	to track the success of Google's autonomous 14:13:04
23	vehicle program? 14:13:10
24	A. Based on my understanding, because 14:13:10
25	Google was the leader in the field, and if Uber 14:13:12

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1 was going to succeed or be the one to win the	14:13:14
2 race, it wanted to have an understanding of how	14:13:18
3 Giraffe was proceeding or progressing.	14:13:23
4 Q. Was this your recommendation, to	14:13:26
5 prioritize effort on Google's autonomous	14:13:27
6 vehicle program for 2017?	14:13:30
7 A. I honestly don't recall. It	14:13:36
8 wouldn't surprise me because it makes sense,	14:13:38
9 but I also know how it was my understanding	14:13:40
10 that it was -- that Google was of high interest	14:13:45
11 and high priority to Mr. Sullivan and ATG	14:13:47
12 folks.	14:13:51
13 Q. Did Mr. Gicinto agree with your	14:13:54
14 recommendation here?	14:13:56
15 A. I believe he did. It's -- it's --	14:13:57
16 that's how we presented it.	14:14:00
17 Q. Were you part of the -- well,	14:14:09
18 first of all, are you aware of whether there	14:14:09
19 was a presentation by Mr. Gicinto to	14:14:09
20 Mr. Sullivan about this slide deck?	14:14:10
21 A. I believe there was, yes.	14:14:13
22 Q. Were you part of that?	14:14:14
23 A. I don't believe I was, no.	14:14:15
24 Q. Do you know who was part of that	14:14:17
25 other than the two of them?	14:14:18

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1	A. I do not. I assume Mat Henley	14:14:20
2	would have been part of it.	14:14:22
3	Q. Did you talk to Mr. Gicinto about	14:14:23
4	his presentation after he made it?	14:14:26
5	A. I assume we did. I mean, I don't	14:14:32
6	remember specifics, but I'm sure we did.	14:14:34
7	Q. As a result of the meeting that	14:14:37
8	Mr. Gicinto had with Mr. Sullivan about this	14:14:39
9	Exhibit 9007, were there any changes to the	14:14:51
10	priorities or recommendations that are	14:14:51
11	contained in this exhibit?	14:14:53
12	A. Not as I recall.	14:14:55
13	Q. So it was full steam ahead with	14:14:56
14	respect to the recommendations in this exhibit;	14:14:59
15	is that fair?	14:15:01
16	A. Yes.	14:15:01
17	Q. Did Mr. Gicinto convey to you	14:15:16
18	anything else, any details about his	14:15:16
19	conversation with Mr. Sullivan about this slide	14:15:16
20	deck?	14:15:19
21	A. Not that I recall. I mean, I	14:15:21
22	think your previous characterization's probably	14:15:23
23	pretty accurate. At that point in time, just	14:15:26
24	continue to do the kind of research we'd been	14:15:28
25	doing.	14:15:30

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1	Q. -- the number one priority is 14:43:29
2	listed as source code? 14:43:31
3	A. Correct. 14:43:32
4	Q. What does that mean? 14:43:32
5	A. Just that, to get a sense from any 14:43:36
6	of the vendors that were there, anybody that 14:43:38
7	was presenting, anything we could learn about 14:43:41
8	people's opinions or thoughts on the importance 14:43:48
9	of source code, et cetera. 14:43:50
10	Q. Well, you already knew that source 14:43:54
11	code at this time was important to autonomous 14:43:55
12	vehicles; correct? 14:43:58
13	A. Correct. 14:43:59
14	Q. So what specifically -- or why was 14:43:59
15	source code a priority in terms of collection? 14:44:02
16	What did that mean in terms of this document? 14:44:04
17	A. One of the things we were 14:44:07
18	interested in is whether or not people 14:44:09
19	were -- you know, other competitors were 14:44:10
20	struggling with their source code, were they 14:44:12
21	confident in it, that kind of thing. 14:44:14
22	Q. How would that -- why is 14:44:17
23	that -- why was that important to Uber? 14:44:19
24	A. Once again, give kind of a sense 14:44:21
25	of where Uber stood in the race, where other 14:44:24

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1 competitors may stand in the race, whether	14:44:28
2 they're confident, whether they're -- they're	14:44:29
3 succeeding or not succeeding.	14:44:32
4 Q. So other than collecting	14:44:35
5 information at CES about whether competitors	14:44:40
6 were struggling with their source code, what	14:44:46
7 else with respect to source code was Uber	14:44:48
8 trying to assess or obtain at CES 2017 with	14:44:52
9 respect to source code?	14:44:57
10 MR. UMHOFER: Objection, calls for	14:45:00
11 speculation.	14:45:01
12 A. Just what I said. I mean, a sense	14:45:03
13 for where other -- other competitors are in	14:45:05
14 terms of their confidence in their -- their	14:45:07
15 source code and whether it's going to lead to	14:45:10
16 success.	14:45:12
17 Q. How would you obtain information	14:45:13
18 about source code that was written by	14:45:14
19 competitors at CES 2017?	14:45:19
20 A. To make sure I understand your	14:45:23
21 question correctly, we weren't looking to get	14:45:24
22 competitors' source code. We were just looking	14:45:27
23 to get a sense for how confident they were in	14:45:29
24 it. At a conference like that or a -- I mean,	14:45:31
25 it's a large-scale event. You know, if any	14:45:35

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1 vendors or any of the companies or competitors	14:45:40
2 were sharing that information, we would be	14:45:43
3 interested in it.	14:45:45
4 I mean, it's one of those -- an	14:45:47
5 event like that is a place where, obviously,	14:45:49
6 people come together. They talk about their	14:45:51
7 successes. They try to showcase that -- their	14:45:53
8 success, et cetera.	14:45:57
9 Q. So one way that you would try to	14:46:00
10 obtain information about competitors source	14:46:02
11 code was to talk to vendors or suppliers to	14:46:05
12 those competitors at CES 2017?	14:46:08
13 A. I don't know that vendors work on	14:46:12
14 source code. Source code is -- you know,	14:46:14
15 that's, what do you call it, the -- internal to	14:46:17
16 a company, so --	14:46:20
17 Q. So how would you get information	14:46:22
18 about source code?	14:46:24
19 A. Well, let's back up. We never	14:46:27
20 did. The idea was that, should anybody be	14:46:29
21 discussing it, we would be listening. But in	14:46:31
22 terms of like an active effort to do it, I	14:46:36
23 mean, that didn't take place.	14:46:40
24 Q. Let me make sure I understand	14:46:41
25 that. This says:	14:46:42

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1	14:46:43
2	"Number one priority for collection is source code at CES 2017."
3	14:46:45
4	So what was the method that Uber or your group would use to try to collect
5	14:46:49
6	information about competitors' source code?
7	14:46:56
8	A. Again, when competitors, if they were giving a presentation, if they were
9	14:47:01
10	discussing what their -- their plans or what they believed their successes were going to be, to listen to that.
11	14:47:05
12	I understand your question. It says, you know, number one is source code.
13	14:47:07
14	That's -- that goes back to the previous analysis, correct, that everything hinges on
15	14:47:09
16	the source code. So, again, are companies comfortable with where they stand vis-à-vis
17	14:47:13
18	their source code?
19	14:47:15
20	Q. So your intention in collecting intelligence at CES 2017 with respect to source
21	14:47:18
22	code was to listen to what your competitors were saying about their own source code?
23	14:47:20
24	A. Yeah. Back up.
25	14:47:22
	If you -- again, intelligence, if
	14:47:25
	you're using that to mean protected
	14:47:29
	information, yeah, that's not what we were
	14:47:31
	Q. So your intention in collecting intelligence at CES 2017 with respect to source
	14:47:33
	code was to listen to what your competitors were saying about their own source code?
	14:47:36
	A. Yeah. Back up.
	14:47:39
	If you -- again, intelligence, if
	14:47:43
	you're using that to mean protected
	14:47:48
	information, yeah, that's not what we were
	14:47:50
	Q. So your intention in collecting intelligence at CES 2017 with respect to source
	14:47:52
	code was to listen to what your competitors were saying about their own source code?
	14:47:54

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1 there for. But we were there to listen to	14:47:56
2 information, absolutely.	14:47:58
3 Q. Well, whether it was confidential	14:47:59
4 or not, I didn't limit it that way. So let me	14:48:02
5 just ask it again.	14:48:04
6 Was it -- was it your intention in	14:48:06
7 collecting information at CES 2017, with	14:48:08
8 respect to competitors' source code, simply to	14:48:12
9 attend presentations that your competitors were	14:48:17
10 giving to see if they mentioned anything about	14:48:20
11 source code?	14:48:22
12 A. Just that simple.	14:48:23
13 Q. Okay.	14:48:24
14 And is it -- did -- were you	14:48:26
15 successful? Did you hear any competitor talk	14:48:28
16 about source code at CES 2017?	14:48:31
17 A. No.	14:48:31
18 Q. Was that a reasonable expectation	14:48:36
19 on your company's part or your group's part,	14:48:37
20 to -- to --	14:48:40
21 A. Uh-huh.	14:48:41
22 Q. -- expect that you would hear	14:48:42
23 about a competitor's source code directly from	14:48:44
24 the competitor?	14:48:46
25 A. I would say, no, it wasn't a	14:48:47

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1 things like that from other companies, but --	14:51:08
2 Q. The number one priority in terms	14:51:12
3 of organizations was Google on the list;	14:51:14
4 correct?	14:51:17
5 A. Yes.	14:51:17
6 Q. What information did Uber	14:51:20
7 personnel obtain about Google at CES 2017, to	14:51:23
8 your knowledge?	14:51:27
9 A. I don't recall us collecting	14:51:27
10 anything.	14:51:30
11 Q. So in terms of the number one	14:51:31
12 priorities for collection and organizations,	14:51:33
13 it's your testimony that Uber obtained no	14:51:37
14 information at CES 2017 on those topics or	14:51:41
15 subjects; is that right?	14:51:45
16 A. Uh-huh, yes.	14:51:46
17 Q. Okay.	14:51:47
18 So that was a failure?	14:51:48
19 A. You could characterize it that	14:51:49
20 way.	14:51:51
21 Q. What information with respect to	14:51:55
22 any of the other priorities for collection that	14:51:57
23 are listed here on Exhibit 9004 were obtained?	14:52:00
24 A. I'm trying to remember the name of	14:52:10
25 the company. There was a Korean company that	14:52:11

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1	Vehicle Program?	14:58:58
2	A. I don't believe it did, no.	14:58:58
3	Q. Did you speak to Ms. Chung about	14:59:00
4	this report?	14:59:01
5	A. Yes, we discussed it.	14:59:02
6	Q. What did you discuss?	14:59:04
7	A. Basically the -- the claims of the	14:59:14
8	Jungsang CEO regarding his -- his product.	14:59:16
9	If I remember correctly, Anna	14:59:23
10	speculated that he was actually bragging and	14:59:25
11	that he didn't have -- or that Google had not	14:59:30
12	shown interest in his -- his LiDAR or	14:59:33
13	Jungsang's LiDAR.	14:59:38
14	If I remember correctly, her	14:59:43
15	assessment was that he was making that claim in	14:59:44
16	an effort to draw interest from investors and	14:59:48
17	other -- other folks.	14:59:51
18	Q. Did you do any followup research	14:59:54
19	about this Korean company in order to verify	14:59:59
20	the claims that the CEO made or otherwise?	15:00:03
21	A. No.	15:00:03
22	Q. And this one has -- this report	15:00:17
23	has a -- again, a label created at the	15:00:19
24	direction of legal?	15:00:22
25	A. Right.	15:00:23

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1 competitors' plans, intentions and 15:15:51
2 capabilities." 15:15:53

3 Do you see that? 15:15:54

4 A. I do. 15:15:55

5 Q. And what did Mr. Ron instruct you 15:15:55
6 with respect to the supply chain members? 15:15:58

7 A. The -- the only thing I recall 15:16:07
8 from that is that -- and that's worded really 15:16:12
9 weird. 15:16:21

10 The only thing I recall from that 15:16:22
11 is just if we were able to identify who the 15:16:23
12 various suppliers or vendors were of certain 15:16:25
13 technology. Again, that would, as I understood 15:16:30
14 it, help Mr. Ron, Mr. Levandowski assess what 15:16:31
15 kind of direction whichever competitor, you 15:16:36
16 know, was taking in terms of their research. 15:16:38

17 Q. And was one of the things that you 15:16:40
18 were planning to do to speak with any supply 15:16:42
19 chain vendors of your competitors that you 15:16:47
20 could identify to see if you could get any 15:16:49
21 information about your competitors? 15:16:51

22 A. No, I don't recall ever having 15:16:54
23 such a plan, and we never did that. 15:16:55

24 Q. Well, this says supply chain 15:16:58
25 members are chatty and are good sources of 15:16:59

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1	A. Say that question again. 15:18:01
2	Q. Sure. 15:18:03
3	Do you have any information about 15:18:07
4	whether anyone in your group or outside of your 15:18:11
5	group at Uber talked to supply chain members or 15:18:14
6	vendors of Uber's -- strike that. Let me 15:18:21
7	rephrase that. 15:18:24
8	Do you have any understanding or 15:18:25
9	information about whether anyone in your group 15:18:27
10	or outside of your group at Uber spoke to 15:18:31
11	vendors or suppliers to Uber's competitors in 15:18:35
12	the autonomous vehicle space in order to gain 15:18:44
13	information about those competitors? 15:18:46
14	A. Yeah, I have no knowledge of 15:18:50
15	anyone speaking to supply chain members or -- 15:18:51
16	Q. Okay. 15:18:51
17	Did you speak to anyone on your 15:18:55
18	team about talking to supply chain members who 15:18:59
19	might be chatty or good sources of insight into 15:19:06
20	a competitor's plans? 15:19:07
21	A. No, I don't recall having that 15:19:09
22	conversation. 15:19:10
23	Q. Okay. 15:19:11
24	And as far as you know, this was a 15:19:13
25	requirement that was never actually executed or 15:19:15

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1	information in that deck about Uber's	15:36:19
2	competitors being reviewed with some of the	15:36:22
3	members of ATG?	15:36:24
4	A. That's my recollection.	15:36:25
5	Q. Let me show you previously marked	15:36:45
6	Exhibit 9206.	15:36:45
7	[Document passed to the witness.]	15:36:46
8	Q. Have you seen this document	15:37:13
9	before?	15:37:14
10	A. Yes.	15:37:14
11	Q. In what context?	15:37:16
12	A. As I recall, I prepared it shortly	15:37:19
13	after I was hired.	15:37:24
14	Q. Did you give it to anyone else	15:37:26
15	in -- on your team?	15:37:28
16	A. I submitted it to Mr. Gicinto,	15:37:29
17	yes.	15:37:33
18	Q. Did he give you feedback?	15:37:34
19	A. Yeah, I mean, he thanked me for	15:37:36
20	the -- the document, and then that was about	15:37:39
21	it. I don't -- I don't recall us ever doing	15:37:43
22	anything with it.	15:37:46
23	Q. This says "Draft" on each page.	15:37:46
24	Do you recall whether there were other versions	15:37:48
25	of this document?	15:37:50

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1	A. As I recall, this was the only,	15:37:51
2	the only one I prepared, and that's why it says	15:37:54
3	draft because it never -- never went any	15:37:57
4	further.	15:37:59
5	Q. Did Mr. Gicinto ask you to prepare	15:37:59
6	this?	15:38:03
7	A. Yes.	15:38:03
8	Q. And where did the information in	15:38:03
9	this document come from?	15:38:06
10	A. Everything in this document would	15:38:10
11	have come from -- I'd have to read the -- the	15:38:12
12	whole thing.	15:38:15
13	Q. Well, let me ask a different	15:38:28
14	question.	15:38:30
15	A. Yes.	15:38:31
16	Q. If you look at the -- on the	15:38:32
17	second page --	15:38:35
18	A. Right.	15:38:35
19	Q. -- it says "Collection strategy."	15:38:36
20	And what's that intended to convey?	15:38:37
21	A. Collection strategy.	15:38:48
22	[Pause.]	15:38:48
23	A. The whole -- it's intended to	15:39:13
24	convey just that, how we would do our research	15:39:15
25	into the various competitors.	15:39:19

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1	A. Yes.	15:45:54
2	Q. And when was -- you said you wrote	15:45:55
3	this document shortly after you joined Uber;	15:46:02
4	correct?	15:46:04
5	A. Yes.	15:46:05
6	Q. And then how did you know that the	15:46:05
7	number one collection objective would be to	15:46:07
8	collect information about Google? What led you	15:46:12
9	to write this?	15:46:15
10	A. That was conveyed to me by	15:46:16
11	Mr. Gicinto. As I understand it, it was	15:46:18
12	conveyed to him by either Mr. Henley and/or	15:46:19
13	Mr. Sullivan.	15:46:22
14	Q. And then under that heading of	15:46:23
15	Giraffe, it says:	15:46:26
16	"What original equipment	15:46:28
17	manufacturers (OEM) --	15:46:29
18	A. Yeah.	15:46:29
19	Q. -- "is Giraffe partnering with?"	15:46:31
20	Right?	15:46:33
21	A. Yes.	15:46:33
22	Q. Did you ever obtain any	15:46:33
23	information about that?	15:46:35
24	A. No. Beyond knowing Velodyne was	15:46:36
25	one of their suppliers, I don't recall	15:46:41

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1 a part in that, yeah.	15:49:25
2 Q. Sitting here today, you don't	15:49:27
3 recall whether you ever did that with respect	15:49:28
4 to Google or Waymo?	15:49:30
5 A. I honestly do not.	15:49:31
6 Q. It says:	15:49:37
7 "Map the human terrain around each	15:49:38
8 of the key personalities in the AV program."	15:49:41
9 A. Right.	15:49:44
10 Q. What does that mean?	15:49:44
11 A. In short, if -- if you identify a	15:49:45
12 key person in a program, then who are their key	15:49:47
13 people around -- around them? Who -- who	15:49:51
14 are -- who's their circle of folks they rely	15:49:53
15 upon?	15:49:56
16 Q. Was that ever done?	15:50:03
17 A. No, I don't recall ever doing	15:50:05
18 that.	15:50:10
19 Q. So it looks like a lot of these	15:50:11
20 collection objectives for Google were never	15:50:13
21 met.	15:50:16
22 A. Correct.	15:50:17
23 Q. Were the collection objectives	15:50:26
24 with respect to Google modified at all or --	15:50:27
25 with respect to Waymo after the time that you	15:50:30

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1	Q. Under -- this is describing in 15:51:54
2	more detail the collection plan; right? 15:51:57
3	A. Yes. 15:51:57
4	Q. And if you look at the next to 15:52:01
5	last paragraph on that page, it says: 15:52:03
6	"To succeed, our collection plan 15:52:05
7	must be both broad and deep. It must be broad 15:52:08
8	enough to develop streams of reporting on at 15:52:10
9	least six different competitors." 15:52:12
10	Right? 15:52:13
11	A. Yes. 15:52:13
12	Q. And then the next sentence says: 15:52:16
13	"And the plan must be deep enough 15:52:19
14	to acquire in a timely manner meaningful 15:52:21
15	technical data and to identify legitimate 15:52:25
16	milestones on the road to AV Level 5." 15:52:28
17	Do you see that? 15:52:31
18	A. I do. 15:52:32
19	Q. What was the technical data that 15:52:33
20	was sought that's referenced here? 15:52:35
21	A. When this was written, this was 15:52:38
22	purely conceptual. Again, I'm not a technical 15:52:41
23	guy. So conceptually it would be, you know, 15:52:45
24	that technical data that's important to the 15:52:47
25	programs. 15:52:52

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1	Q. Okay.	15:52:55
2	And do you know if any such	15:52:55
3	technical data was ultimately obtained?	15:52:56
4	A. No, no.	15:52:58
5	Q. You don't know, or -- or is the	15:52:59
6	answer no?	15:53:01
7	A. Well, I guess the answer is	15:53:06
8	twofold. I don't know, but I know I never did	15:53:07
9	it and our team never did it.	15:53:10
10	Q. If you go to the next page, it	15:53:12
11	says:	15:53:14
12	"Two-Pronged Collection"	15:53:16
13	A. Yes.	15:53:16
14	Q. Under Prong One:	15:53:18
15	"Establish and Maintain the	15:53:20
16	Baseline"	15:53:21
17	Right?	15:53:22
18	A. Uh-huh.	15:53:23
19	Q. And then if you look at -- number	15:53:23
20	1 says:	15:53:25
21	"Open Source Research"	15:53:26
22	A. Uh-huh, yes.	15:53:27
23	Q. And then number 2 says:	15:53:28
24	"Internal Resources"	15:53:32
25	Number 2.	15:53:33

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1 And -- so you're -- what you're 15:54:40
2 saying -- we talked about Iden earlier; 15:54:40
3 correct? 15:54:43
4 A. Right, yep. 15:54:43
5 Q. And you had said that you believed 15:54:43
6 all of these Idens, C, D, E, F, G and H, were 15:54:45
7 █████████ competitors? 15:54:53
8 A. There were other competitors. I 15:54:55
9 believe the majority of them were █████, yes. 15:54:57
10 Q. But what you're saying here is 15:55:00
11 that Iden I and Iden J are -- are 15:55:01
12 identifications of the ATG group at Uber -- 15:55:06
13 A. Uh-huh. 15:55:11
14 Q. -- and the Otto company -- 15:55:12
15 A. Right. 15:55:12
16 Q. -- respectively; is that right? 15:55:14
17 A. Yes. 15:55:16
18 Q. And then it says: 15:55:21
19 "The purpose of these meetings 15:55:22
20 will be to gather assessment on the claims of 15:55:23
21 competitors as to their progress in the AV 15:55:25
22 race" -- 15:55:27
23 A. Right. 15:55:27
24 Q. -- "and then to identify which 15:55:27
25 specific techniques and technologies are likely 15:55:29

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1	to lead to success and which are red herrings." 15:55:32
2	Do you know if this was done? 15:55:34
3	A. It was not done. 15:55:35
4	Q. Do you know why? 15:55:36
5	A. Yeah. Again, this, this document 15:55:38
6	I prepared at Mr. Gicinto's request last year. 15:55:41
7	It was conceptual in nature, and most of what's 15:55:46
8	in here we never did. We didn't actually make 15:55:50
9	any kind of concerted effort until after the 15:55:56
10	meeting with -- with Mr. Ron, and that's when 15:55:58
11	those requirements came in. 15:56:00
12	Q. Do you see that after internal 15:56:07
13	resources, there's a little asterisk? 15:56:09
14	A. Internal resources, little 15:56:09
15	asterisk. Yes. 15:56:14
16	Q. I'm looking at page 626. 15:56:15
17	A. Yes. 15:56:17
18	Q. Okay. 15:56:17
19	And does that asterisk refer to 15:56:17
20	what's on page 628, the asterisk there, the 15:56:19
21	note? 15:56:23
22	A. Yes. 15:56:35
23	Q. Okay. 15:56:35
24	And is what's being conveyed here 15:56:44
25	that when you're meeting with some of the 15:56:47

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1	employer?	16:01:45
2	A. We never did it, so the question	16:01:46
3	is hypothetical. But, of course, it would have	16:01:47
4	mattered.	16:01:49
5	Q. Well, you were suggesting that	16:01:49
6	that's one thing that should be done here in	16:01:51
7	this document; right?	16:01:53
8	A. That could be done, sure.	16:01:54
9	Q. Okay.	16:01:54
10	And did you discuss that with	16:01:56
11	Mr. Gicinto?	16:01:58
12	A. I don't recall having that	16:02:02
13	discussion with him specifically, no.	16:02:04
14	Q. All right.	16:02:04
15	Do you recall having a discussion	16:02:08
16	with anyone in your group?	16:02:11
17	A. About that?	16:02:12
18	Q. Yes.	16:02:12
19	A. No. Again, I prepared this	16:02:14
20	document and shared it with Mr. Gicinto.	16:02:15
21	Essentially, I mean, it never really went	16:02:19
22	anywhere. We never ended up doing or executing	16:02:21
23	any of this.	16:02:25
24	Q. Well, you executed some of it?	16:02:27
25	A. Some of it, yes.	16:02:28

1 C E R T I F I C A T E
2

3 I, PAUL J. FREDERICKSON, CA

4 Certified Shorthand Reporter No. 13164 and
5 WA Certified Court Reporter No. 2419, do
6 hereby certify:

7
8 That prior to being examined,
9 the witness named in the foregoing
10 deposition was by me duly sworn or affirmed
11 to testify to the truth, the whole truth and
12 nothing but the truth;

13
14 That said deposition was taken
15 down by me in shorthand at the time and
16 place therein named, and thereafter reduced
17 to print by means of computer-aided
18 transcription; and the same is a true,
19 correct and complete transcript of said
20 proceedings.

21
22 I further certify that I am not
23 interested in the outcome of the action.

